

§ 1321. Selection of Arbitrators.

(a) Unless the Petitioner and Respondent otherwise agree, there shall be only one Arbitrator who shall be selected as hereinafter provided.

(b) The Petitioner and Respondent shall have until 20 days after service of the complaint upon Respondent to agree on the selection of an Arbitrator. If no such agreement is reached, the Petitioner and Respondent shall, within 30 days after service of the complaint upon Respondent, file a list of 5 acceptable Arbitrators ranked in order of preference with the Office of Administrative Hearings.

Notwithstanding Section 1305, this list need not be sent to the other parties. OAH shall strike any names over five. If either or both Petitioner or Respondent fails to submit a list or to include five names on its list the Office of Administrative Hearings shall compose or complete the list with names of persons selected at random, who have been enrolled on the panel certified by the Public Works Contract Arbitration Committee and who have indicated a willingness to serve as an Arbitrator in the location for the hearing. Names selected at random shall be listed and accorded preference in the order of their selection. If one or more names appear in common on both lists submitted by the Petitioner and Respondent, the Office of Administrative Hearings shall appoint the Arbitrator from among such names and in accordance with the preferences indicated by the lists.

(c) If no name on the lists of five names appears in common, the Office of Administrative Hearings shall combine the listed names with ten additional names from the certified panel and submit simultaneously to the Petitioner and Respondent a list of names so constituted. The names selected from the certified panel shall be selected at random from those who have indicated a willingness to serve as an Arbitrator in the location for the hearing unless the Petitioner and Respondent agree that those so named be limited to persons with expressly designated special technical expertise or qualifications.

(d) The Petitioner and Respondent each shall have 15 days from the mailing date in which to cross off any names to which it objects, number the remaining names indicating the order of preference, and return the list to the Office of Administrative Hearings with a copy to each other. If either or both Petitioner or Respondent does not return the list within the time specified or does not indicate an order of preference, all persons named therein shall be deemed equally acceptable.

From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the Office of Administrative Hearings shall appoint the Arbitrator. If for any reason the appointment cannot be made from the submitted list, the Office of Administrative Hearings shall repeat the submission process with an entirely different list of 20 names selected at random from those who have indicated a willingness to serve as an Arbitrator in the location for the hearing.

If after this second submission an Arbitrator has not been selected, either Petitioner or Respondent may petition the Superior Court to appoint the Arbitrator from among those who have indicated a willingness to serve as an Arbitrator in the location for the hearing.

(e) If the name of a person is submitted as an acceptable Arbitrator and the person is not enrolled on the certified panel of Arbitrators, the Petitioner or Respondent submitting such name at the same time shall also submit a statement of qualifications similar to that required of persons on the certified panel. Failure to submit the required statement of qualifications shall result in elimination of that person's name from the list submitted.

Note: Authority cited: Sections 10240.5 and 10245.2, Public Contract Code. Reference: Sections 10240.3, 10240.5, 10245.3 and 10245.4, Public Contract Code.

History

1. Amendment filed 4-6-84; effective thirtieth day thereafter (Register 84, No. 14).
2. Renumbering of former section 321 to new section 1321 filed 6-20-97; operative 7-1-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25).
3. Amendment of subsections (b), (c) and (d) filed 8-15-97; operative 8-15-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 33).
4. Amendment by General Services, Transportation and Water Resources departments of subsection (b) filed 8-23-2000; operative 9-22-2000 (Register 2000, No. 34).

§ 1322. Notice to Arbitrator of Appointment.

Notice of the appointment of the Arbitrator shall be mailed to the Arbitrator by the Office of Administrative Hearings, together with a copy of these Rules and an oath of office as prescribed by the Office of Administrative Hearings.

Note: Authority cited: Sections 10240.5 and 10245.2, Public Contract Code. Reference: Sections 10240.5 and 10245.4, Public Contract Code.